COMMITTEE ON LEGISLATIVE RESEARCH OVERSIGHT DIVISION

FISCAL NOTE

<u>L.R. No.</u>: 1420-02 <u>Bill No.</u>: HB 746

Subject: Makes various changes regarding in-home care for the elderly.

<u>Type</u>: Original

Date: February 20, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue	(\$561,035)	(\$972,848)	(\$1,007,069)
Total Estimated Net Effect on <u>All</u> State Funds	(\$561,035)	(\$972,848)	(\$1,007,069)

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2002	FY 2003	FY 2004	
Federal Fund				
Total Estimated Net Effect on <u>All</u> Federal Funds*	\$0	\$0	\$0	

* Estimated revenues and expenditures to exceed \$800,000 annually and net to \$0.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 13 pages.

FISCAL ANALYSIS

<u>ASSUMPTIO</u>N

Officials from the **Department of Health** and **Office of Administration - Administrative Hearing Commission** stated the proposed legislation would not fiscally impact their organizations.

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** stated the Patrol's Criminal Records and Identification Division currently conducts criminal record searches for employment purposes and therefore, anticipates the impact to be minimal. The Patrol's Training Division assumes they could work in conjunction with the Division of Aging personnel to develop a training curriculum on elder abuse investigation. Once developed, the curriculum would need to be submitted to the Peace Officers Standards and Training (POST) Commission for consideration of incorporation into the Basic Law Enforcement School curriculum. The Training Division assumes that the subject matter could be included in the Domestic Violence block of instruction and anticipates no fiscal impact.

Officials from the **Office of State Public Defender (SPD)** stated that for the proposed legislation, the SPD has assumed that existing staff could provide representation for those cases arising where indigent persons were charged with failure to report elder abuse, a Class A misdemeanor. However, passage of more than one similar bill would require the SPD to request increased appropriations to cover the cumulative costs of representing the indigent accused in the additional cases.

Officials from the **Department of Corrections (DOC)** stated that currently, the DOC cannot predict the number of new cases which may result from the creation of the offenses(s) outlined in this proposed legislation. An increase in cases depends on the utilization by prosecutors and the actual sentences imposed by the court. If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in costs through supervision provided by the Board of Probation and Parole (FY 99 average of \$2.47 per offender, per day). In summary, supervision by the DOC through probation would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Office of Attorney General** stated the proposed legislation will have no fiscal impact to their agency.

Officials from the **Office of State Courts Administrator** stated the various changes in the laws relating to elderly abuse proposed by this legislation should not have an appreciable impact on the workload of the courts.

ASSUMPTION (continued)

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Officials from the **Office of Prosecution Services** stated the proposed legislation should not result in an appreciable increase in the costs to their organization.

Officials from the **Department of Mental Health (DMH)** stated this legislation does not impact the DMH. The DMH will continue to investigate abuse and neglect of DMH clients, so there is no change to current procedures.

Oversight assumes any additional costs associated with this proposal will be absorbed with existing resources by the various agencies.

Officials from the **Department of Social Services - Division of Family Services (DFS)** and **Division of Legal Services (DLS)** stated the proposed legislation will not fiscally impact their organizations.

Officials from the **Department of Social Services - Division of Medical Services (DMS)** stated that currently, a personal care client may receive nurse visits for evaluation and assessment if the Division of Aging (DA)determines it is necessary. The individual may also receive nurse visits if they are in need of assistance with filling insulin syringes, setting up oral medications, monitoring skin conditions, diabetic nail care, or other nursing services as determined appropriate by the case manager. Currently 34,195 adult personal care recipients do not receive a nurse visit. (Data provided by the DA). Individuals are reevaluated on at least a yearly basis. Annual cost is estimated at \$1,285,732 (34,195 x \$37.60 FY 01 Medicaid nurse visit rate).

The cost for FY 02 will be \$1,071,443 (10 months); for FY 03 the cost is \$1,337,161, and \$1,390,647 for FY 04. The costs assume a 4% annual inflation rate for growth and increased rates. The federal match used for all years is 61.06%.

The assumption was made that only the annual nursing visit required by this legislation is beyond the current cost limitation (nursing facility cost cap). The current limitation of 26 nurse visits in a 6-month period would remain as stated in the regulation.

The section that requires the DOS to have a process which assumes the in-home provider be reimbursed for any client assessments provided by the nurse will not have a fiscal impact on the DMS. The current program allows the DA to authorize a nurse visit for nursing services as determined appropriate (this would include assessments). The DMS will reimburse all authorized nurse visits and billed by the in-home services provider.

ASSUMPTION (continued)

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	FY 02	FY 03	FY 04
General Revenue	\$417,220	\$520,690	\$541,518
Federal Share	<u>\$654,223</u>	<u>\$816,471</u>	\$849,129
Total	\$1,071,443	\$1,337,161	\$1,390,647

Officials from the **Department of Social Services - Division of Aging (DA)**stated the following assumptions and methodology were used in arriving at fiscal impact:

660.252 Medicaid Participation Agreements

The proposed legislation requires training for all in-home services agencies entering into Medicaid agreements with the DOS. Currently, in-home services agencies contracting with the DA are mandated pursuant to 13 CSR 15-7.021(19) to have training including the recognition and reporting of abuse, neglect, and/or exploitation of elderly or disabled clients. The DOS is required by the legislation to set forth in rule a curriculum for this training. The DA believes current staff can meet this requirement without provision of additional resources.

660.260 24-hour Investigation

The proposed legislation requires that the DOS initiate a prompt and thorough investigation of reports indicative of clear and immediate danger within twenty-four hours. Currently, the DA classifies hotlines based on the degree of risk of injury or harm to the client. In FY 00, data on completed investigation reveals 91.4% of the Class I hotlines, those that involve allegations of the highest risk, were initiated within 24 hours. In FY 00, the DA received a total of 14,732 hotline reports: 2,059 Class I; 10,496 Class II; and 2,177 Class III. Since the DA currently investigates reports indicating a clear and immediate danger within twenty-four hours, the DA anticipates no significant fiscal impact for this requirement.

660.300.2 Suspected Abuse/Neglect of In-Home Services Clients

The proposed legislation allows for the DOS to authorize units of in-home services provider nurse hours to assist or aid the client's case manager in the investigation of abuse/neglect or noncompliance with their plan of services. The DA assumes, for the purposes of this fiscal note, references to in-home services provider nurses are registered nurses licensed pursuant to chapter 335, RSMo. The DOS shall report on the progress of the investigation within five (5) days to the reporting in-home services provider.

In FY 00, the DA completed 12,573 investigations of hotline reports and the DA estimates that there will be 13,704 investigations in FY 02. In FY 00, 8.9% of the hotline reports were made by in-home provider agencies. The DA estimates that 8.9% (1,220) of the 13,704 hotline investigations would be completed on behalf of in-home services clients reported by the in-home <u>ASSUMPTION</u> (continued)

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services providers. The DA would utilize the in-home services provider nurse for assistance with these investigations. It is estimated that the nurse visit portion would require approximately 4 hours or units.

The DA estimates that in addition to the clients currently being reported by the in-home services providers as suspected cases of abuse, neglect, including self-abuse or neglect, or financial exploitation, the in-home services provider would now report clients who are noncompliant with the plan of services or care established by DOS. The DA estimates that approximately 3% (1,590) of the total in-home services clients (53,014 in FY 02), may now be reported by the in-home services provider as noncompliant. The DA would utilize the in-home services provider nurse for additional assistance with the client for compliance with the plan of services or care. It is estimated that the nurse visit portion would require approximately 4 hours or units.

Of the 53,014 in-home services clients, 16.56% are non-Medicaid clients. Therefore, the DA estimates an additional 2,810 (1,220 + 1,590) authorized RN units will cost approximately \$69,987 (2,810 x .1656 x 4 hours x \$37.60 per unit). It is assumed by the DA that the balance of the costs for additional nurse visits would be for Medicaid eligible clients and should be included in the fiscal note response from the Division of Medical Services.

660.300.3 AAA to Conduct Training of Mandated Reporters

Local Area Agencies on Aging (AAAs) may provide volunteer training upon request regarding the detection and reporting of abuse and neglect to persons listed in the legislation as mandated reporters. The DA will absorb the cost of providing qualified trainers when available to conduct train-the-trainer sessions and with printed material when available. The DA estimates the cost associated with training sessions based on the following assumptions:

- AAAs will hold training in conjunction with other regularly scheduled training (such as ombudsman program, nutrition program, transportation program, or in-home program) thereby sharing the cost of the session;
- AAAs will utilize a portion of their Elder Rights or Abuse and Neglect funds for the provision of the training services;
- The above mentioned resources will be inadequate to fund the training in its entirety as the funds are currently being used.

The DA, therefore, would require additional funds of \$10,000 to be distributed to the AAAs based on the following methodology:

ASSUMPTION (continued)

• Each of the ten AAA offices will average quarterly training sessions within their area at a

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cost of \$250 per agency (\$1,000 per AAA);

- Funds will be distributed based on the request of an agency that has scheduled training within their area;
- Funds may be used for any combination of expenses related to training mandated reporters regarding elder abuse such as printed materials, meeting accommodations or expenses associated with training adequate trainers.

660.300.14 Safe at Home Evaluation

Requires the DOS to categorize in-home clients according to a "Safe at Home" evaluation of care and their condition needs. Provider nurses as well as the expertise, services or programs of other departments or agencies may be used to assist the DOS in determining the care needs of clients. The plan of service or care for each in-home client will now be authorized by either a DOS nurse or an in-home services nurse. Costs related to this review are contained within 660.300.15 below.

660.300.15 Authorized Nurse Visits

Annually a nurse visit shall be authorized and reimbursed as part of the case management plan for all in-home clients. Authorized in-home provider nurse visits shall be reimbursed by the DOS. Authorization of the annual nurse visits shall not be outside the cost cap. It is assumed by the DA that the DMS will assess the financial impact of the additional nurse visits for Medicaid clients. The DA will authorize one nurse visit annually for all 8,584 SSBG and dual authorized clients at a rate of \$37.60 per visit; these clients are not currently receiving a nurse visit. These authorized nurse visits will strengthen the DA's ability to detect signs of abuse, neglect and noncompliance with the plan of service.

Number of nurse visits 8,584
Cost per nurse visit x \$37.60Total Estimated In-Home Services Program Costs \$322,758

The DA anticipates no fiscal impact on staffing as current policy requires Social Service Worker home visits at the initiation of services, annual reassessments, and when changes in condition or circumstances of the client are significant.

660.300.16 Quality Assurance and Supervision Process for Clients

The DA shall establish a process to ensure in-home provider agencies are reimbursed for their nurses' involvement in assessment processes. The DA anticipates no significant impact related to monitoring the provider reimbursement for units delivered.

ASSUMPTION (continued)

660.302.1 Referrals to the Prosecutor and Law Enforcement

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This section requires the DOS to promptly refer all suspected cases of elder abuse to the appropriate law enforcement agency and prosecutor and to determine whether protective services are required. The prosecutors' office and law enforcement agencies will determine the fiscal impact associated with additional referrals resulting from the language requiring the DA to refer all cases of "suspected" elder abuse. There were 12,573 investigations completed by Home and Community Services (HCS) in FY 00; 57% (7,167 cases) have investigative findings of reason to believe and 19.4% (2,439 cases) have findings in which the allegations were *suspected* to have occurred. According to services provided, law enforcement involvement was included in 905 (7.2%) of these investigations.

Although the previous law requires that all "substantiated cases" be referred to law enforcement or the prosecutors, the HCS policy (Policy 1703.30) requires joint investigation with law enforcement any time report allegations indicate or an investigation reveals information that:

"Emergency entry of the premises is needed; Emergency removal of the eligible adult from the premises is needed; Caregiver or other party will (allegedly) refuse to allow the investigation to be conducted; The life of the eligible adult may be in danger upon (subsequent) investigation by DA; The eligible adult faces the likelihood of serious physical harm if not placed in a medical treatment facility; Abuse or Neglect meeting the statutory definition of the Crime of Elder Abuse has occurred (Policy 1702.40); Report indicates physical evidence needs to be professionally gathered or preserved and information indicates the eligible adult is being held against his/her will.

Other circumstances which suggest that the worker may need to involve law enforcement prior to a face-to-face visit with the reported adult include: to obtain background information about subjects in the report (e.g. past law enforcement involvement, potential threat to the worker, reported adult, etc.); the report indicates an unrelated serious crime may have been committed; there is reason to believe the alleged perpetrator will flee if you are not accompanied by law enforcement; notification of law enforcement is needed to preserve the peace; it is believed that law enforcement may have relevant information about the situation (for example a past involvement in disputes, a party having previously been jailed, etc.)"

The DA staff are required to "cooperate with law enforcement during the investigation as requested. The degree of the DA involvement in the gathering of evidence shall be at the discretion of the law enforcement agency." It is anticipated that the stricter policy is in line with the legislative intent of the sponsor and the impact of the statute will have little fiscal impact on law enforcement or the HCS.

ASSUMPTION (continued)

660.302.2 Cross Training of Law Enforcement

The DA assumes the intent of the sponsor is that the DA staff and law enforcement officials

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statewide will require training on the proper handling of cases involving elder abuse. There will be a window of time in which the state will have to bring 800+ DA staff and the approximately 29,000 law enforcement officials (representing over 1,200 law enforcement agencies) into compliance with the training requirements of the legislation.

The law enforcement agencies will absorb the cost of training law enforcement officials. Once existing law enforcement officers receive the training, the curriculum will be incorporated into the required training for state certification in Missouri. There are 18 law enforcement training academies located throughout the state which offer the required 470 hours of training for all law enforcement officials to become certified.

The DA will need one Social Services Manager B1 position to oversee the administrative responsibilities outlined in the bill. The administrator will work with the Highway Patrol, Sheriff's Association, Law Enforcement Training Academies, and other such agencies and associations to fulfill the requirements of joint training, developing accurate curriculum including the mandated checklist to ensure thorough investigations of elder abuse cases and under 660.252, a proficiency exam for use with in-home provider agencies for new applicants. Once the proficiency exam and the law enforcement curriculum has been developed, the administrator will act as the DA liaison for law enforcement over the 1,200 law enforcement agencies to ensure that elder abuse training is accurate and revisions are made as necessary in accordance with state laws. The manager will conduct train-the-trainer sessions for new law enforcement and the DA trainers, as necessary, and be available to speak at association meetings and law enforcement conferences across the state. The manager will conduct in-house training to establish a list of the DA personnel in various regions who can present on elder abuse investigations and the use of the checklist. Once the curriculum has been developed, it will be used for training staff of the law enforcement academies and within the DA to train existing staff on the proper handling of cases involving elder abuse including the use of the checklist. The DA will add to its basic and advanced orientation this same curriculum to enhance the sections involving elder abuse that are already included in the current training program, inviting law enforcement or highway patrol personnel to present/speak at the orientation programs to meet the requirements of cross-training.

The DA will conduct training for 800+ employees within the DA in six to eight sessions across the state (depending on attendance by law enforcement personnel). The DA estimates that 16 hours of training across three days will be sufficient, requiring two overnights for approximately 40% of the staff. All staff will require meal allowances and some travel reimbursement. Anticipating maximum carpool and state car usage, mileage is based on an average of 75 miles per car. The DA estimates the cost of training as follows (no cost for "trainers" included):

ASSUMPTION (continued)

Total DA Staff/Personnel to be trained

Approximate number requiring two overnight accommodations (40%)

Hotel Accommodations: \$60 per overnight for two nights (\$320 x 60 x 2)

Meal Allowance: \$23 per day; two days (800 x \$23 x 2)

\$36,800

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Meal Allowance: \$17 last day (plus 15%) (\$19.55 x 800)	\$15,640
Approximate mileage: (1 car per 3 employees = $800/3 = 267$ cars)	
75 average miles round-trip per car (267 x 75 x \$.295/mile)	\$ 5,907
Total Estimated Cost of Training DA Staff	\$96,747

Oversight assumes that the training would be held at sites around the state. Oversight assumes total training costs of \$51,327. Oversight also assumes that rental space for one FTE would not be required.

The DA officials state that based on previous experience, the following amounts represent the average annual expense of an FTE:

- Rent (Statewide Average) \$2,700 per FTE (\$13.50 per sq. ft. x 200 sq. ft.)
- Utilities \$320 per FTE (\$1.60 per sq. ft. x 200 sq. ft.)
- Janitorial/Trash \$200 per FTE (\$1.00 per sq. ft. x 200 sq. ft.)
- Other Expenses (Home & Community Services) \$3,906 per FTE (includes travel, office supplies, professional development, telephone charges, postage and all other expenses not itemized above.)
- Other Expenses (Institutional Services) \$5,248 per FTE (includes travel, office supplies, professional development, telephone charges, postage and all other expenses not itemized above.)

In addition to the above standard costs, systems furniture for the new staff in the central office in Jefferson City will be needed at a cost of \$4,500 per FTE. A desktop PC will be needed for the new staff at a cost of \$2,099 per FTE. FY 02 costs are based on the three (3) month period April 1 through June 30, 2002. FY 03 and FY 04 costs include a 3.0% inflation adjustment for expense & equipment costs and a 2.5% inflation adjustment for personal services.

Officials from the **Office of Secretary of State (SOS)** stated this bill makes major changes in laws regarding the protection of the elderly. The Department of Social Services shall promulgate rules to implement this bill. Based on experience with other divisions, the rules, regulations and forms issued by the Department of Social Services could require as many as 36 pages in the *Code of State Regulations*. For any given rule, roughly half again as many pages are published in the *Missouri Register* as in the Code because cost statements, fiscal notes and the like are not repeated in the Code. These costs are estimated. The estimated cost of a page in the *Missouri* ASSUMPTION (continued)

Register is \$23.00. The estimated cost of a page in the Code of State Regulations is \$27.00. The actual cost could be more or less than the numbers given. The impact of this legislation in future years in unknown and depends upon the frequency and length of rules filed, amended, rescinded or withdrawn. The SOS anticipates the cost of the proposed legislation to be \$2,214 [(36 pp. x \$27) + (54 pp. x \$23)] for FY 02.

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Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

FISCAL IMPACT - State Government	FY 2002 (10 Mo.)	FY 2003	FY 2004
GENERAL REVENUE FUND			
Costs - Department of Social Services Division of Aging			
Personal Service (0.58 FTE)	(\$6,195)	(\$25,827)	(\$26,473)
Fringe Benefits	(\$2,065)	(\$8,608)	(\$8,824)
Expense and Equipment	(\$37,368)	(\$13,192)	(\$13,587)
Additional Authorized Nurse Visits	(\$98,187)	(\$404,531)	(\$416,667)
Total <u>Costs</u> - Division of Aging	<u>(\$143,815)</u>	(\$452,158)	(\$465,551)
Costs - Department of Social Services			
<u>Division of Medical Services</u> Additional Medical Assistance	(\$417,220)	(\$520,690)	<u>(\$541,518)</u>
Total Costs - Department of Social			
Services	(\$561,035)	<u>(\$972,848)</u>	(\$1,007,069)
ESTIMATED NET EFFECT ON			
GENERAL REVENUE FUND	<u>(\$561,035)</u>	<u>(\$972,848)</u>	<u>(\$1,007,069)</u>

FEDERAL FUNDS

<u>Income - Department of Social Services</u>

Increased Medical Assistance Payments \$685,476 \$843,599 \$876,944

Costs - Department of Social Services

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FISCAL IMPACT - State Government	FY 2002 (10 Mo.)	FY 2003	FY 2004
Division of Aging	,		
Personal Service (0.42 FTE)	(\$4,486)	(\$18,703)	(\$19,170)
Fringe Benefits	(\$1,495)	(\$6,234)	(\$6,389)
Equipment and Expense	(\$25,272)	<u>(\$2,191)</u>	<u>(\$2,256)</u>
Total <u>Costs</u> - Division of Aging	(\$31,253)	(\$27,128)	(\$27,815)
Costs - Department of Social Services Division of Medical Services			
Increased Medical Assistance	(\$654,223)	<u>(\$816,471)</u>	(\$849,129)
NET ESTIMATED EFFECT ON	0.0	00	00
FEDERAL FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
FISCAL IMPACT - Local Government	FY 2002 (10 Mo.)	FY 2003	FY 2004
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
	<u> </u>	<u> </u>	<u> </u>

FISCAL IMPACT - Small Business

Small businesses entering into Medicaid participation agreements will be required to provide training specific to abuse and neglect identification, prevention and reporting which must be successfully completed prior to unsupervised contact with clients. Costs are unknown.

DESCRIPTION

The proposed legislation provides that all Medicaid participation agreements entered into between the Department of Social Services and in-home provider agencies shall include, as part of the initial aide training, training on abuse and neglect identification, prevention and reporting which is to be successfully completed prior to unsupervised contact with clients. The department shall investigate, within twenty-four hours, reports which indicate a clear and immediate danger. When any in-home service provider reports a client for suspected abuse or neglect, including self <u>DESCRIPTION</u> (continued)

abuse or neglect or noncompliance with the plan of services established by the department, the client's manager and department nurse shall investigate the allegation. The department shall respond to the reporting in-home service provider within five days regarding the progress of the investigation.

Local area agencies on aging may provide volunteer training regarding the detection and report of

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abuse and neglect.

At the time a client has been assessed to determine the level of care required and is eligible for in-home services, the department shall conduct a "Safe at Home Evaluation" to determine the client's physical, mental, and environmental capacity. The purpose of the "Safe at Home Evaluation" is to assure each client has the appropriate level of services and professionals involved in the client's care. The plan of service is to be authorized by a nurse. Authorized nurse visits are to be conducted at a minimum annually. All authorized nurse visits shall be reimbursed to the in-home services provider outside the nursing home cap for in-home clients whose services have reached 100% of the average statewide charge for care and treatment in an intermediate care facility, provided the services have been preauthorized.

The Department of Social Services shall investigate incidents and reports of elder abuse and promptly refer all suspected cases to the appropriate law enforcement agency and prosecutor shall determine whether protective services are required. The Division of Aging shall require training and cross-training of personnel regarding the proper handling of cases involving elder abuse and the Division of Aging shall develop a checklist for division and law enforcement personnel to follow when investigating possible elder abuse.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Secretary of State
Office of Administration - Administrative Hearing Commission
Department of Public Safety - Missouri Highway Patrol
Office of State Courts Administrator
Department of Health
Office of Prosecution Services
Office of State Public Defender

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Department of Social Services Department of Corrections Office of Attorney General Department of Mental Health

Jeanne Jarrett, CPA

Director

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